

Appl. No. 10/615,035

Amendment Dated 10/5/2005

Reply to Office Action of 12 July 2005 (three month response period.)

**Amendments to the Drawings**

A replacement drawing has been prepared by a patent draftsman and this formal drawing is attached hereto as an Appendix. In particular, corrections have been made to Figure 1.

Appl. No. 10/615,035

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### **REMARKS**

By this amendment, claim 1 has been amended and claim 4 has been cancelled.

Independent claims 1, 9, and 10 are all clearly in condition for allowance for the reasons shown below; all dependent claims should be allowable with the independent claims. Amendments have been made to the specification to correct minor typographical defects.

#### **Summary of the Rejections**

Claims 1, 2, and 5 are rejected under 35 U.S.C. §103 as allegedly being unpatentable over US Patent No. 4,760,593 to Shapiro et al. (hereafter referred to as "Shapiro") in view of US Patent Application Publication US 2003/0190906 A1 to Winick (hereafter referred to as "Winick.") Claim 3 and cancelled claim 4 are also rejected under 35 U.S.C. §103 as allegedly being unpatentable over Shapiro and Winick and further in view of US Patent Application Publication US 2003/0169852 to Otero (hereafter referred to as "Otero.") Claims 6 and 10 are rejected under 35 U.S.C. §103 as allegedly being unpatentable over Shapiro and Winick and further in view of US Patent No. 6,259,787 to Schulze (hereafter referred to as "Schulze") and US Patent No. 6,163,249 to Betcher, III (hereafter referred to as "Betcher.") Finally, claims 7-9 stand rejected under 35 U.S.C. §103 as allegedly being unpatentable over Shapiro and Winick and further in view of US Patent No. 6,060,994 to Chen (hereafter referred to as "Chen.")

Appl. No. 10/615,035  
Amendment Dated 10/5/2005  
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### **35 U.S.C §103 Rejection**

Applicant respectfully traverses this rejection.

Regarding claim 1, the limitations of claim 4 have been added to this independent claim. Claim 4 was previously rejected over Shapiro, Winick, and Otero, therefore, this will be the rejection addressed below.

Independent claim 1 teaches a system for emergency communication comprising a base unit, a POTS telephone handset, a telephone keypad, circuitry for establishing two way telephone voice service over both wired and wireless media and digital recording and voice recognition circuitry for activating the system from a remote location.

The Examiner relies on Shapiro to teach a base unit, a POTS telephone handset and keypad, and the circuitry to establish voice communications over POTS wiring.

The Examiner then concedes that Shapiro fails to teach the following:

- a) circuitry to establish wireless telephone voice communication service;
- b) control electronics to selective switch between POTS service and wireless service; and
- c) digital recording and voice recognition circuitry connected to activate the communication system from a remote location.

Regarding elements (a) and (b), the Examiner relies on Winick to provide the limitations. MPEP 2141.02 states that "[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed

Appl. No. 10/615,035  
Amendment Dated 10/5/2005  
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invention.” The reference to Winick teaches away from the claimed invention for the following reason. As stated in paragraph [0016], Winick shows that two different phone lines are utilized but that the “cellular communication system is the primary communication network for reporting a security event, thereby leaving the first telephone communication system open for telephone communications.” This shows that in an emergency, one phone line would be occupied by data, or a signal sent to the central security site, while the other may or may not be used for voice communications. This teaches away from claim 1 because claim 1 clearly points out that both phone lines are for voice communications and the purpose of this feature is to allow a user to communicate over either line if the other line is in some way disabled. Occupying one line for data would essentially not enable the current invention to function in the manner in which it is claimed.

Regarding element (c), the Rejection relies on Otero, paragraph [0036]. MPEP 2143 states that in order to establish a *prima facie* case of obviousness, “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” The Rejection fails to establish a *prima facie* case of obviousness because nothing in Otero teaches or suggests any digital recording circuitry. In the outstanding rejection of this limitation (Office Action paragraph 3), it is unclear which portion of Otero reads on this limitation because the limitation is not specifically addressed. If this rejection is to be upheld, the specific section of Otero that teaches this limitation should be cited.

Appl. No. 10/615,035

Amendment Dated 10/5/2005

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Regarding claims 2 and 5, the Examiner relies on Shapiro to teach the limitations. Regardless of the teachings of Shapiro regarding these specific limitations, the Examiner has failed to make a *prima facie* case of obviousness as shown above regarding claim 1.

Regarding claim 3, the Examiner relies on Shapiro, Winick, and Otero to teach the claimed functions. Regardless of the teachings of Otero regarding these specific limitations, the Examiner has failed to make a *prima facie* case of obviousness as shown above regarding claim 1.

Regarding claim 6, the Examiner concedes that Shapiro and Winick fail to teach a level sensor circuit operable to detect a condition of the base unit and circuitry for contacting the emergency service in the event the base unit is in a non-horizontal position. The Examiner relies on references to Schulze and Betcher to render this limitation obvious. First, Schulze is referenced to teach the activation of an alarm based on a "jarring" of the base unit (column 3, lines 51-53). Second, Betcher is relied upon to teach the use of a level sensor in the activation of an alarm. This rejection amounts to a piecemeal application of references utilizing the benefit of hindsight to recreate the claimed invention. Specifically, the reference to Schulze shows a system similar to the claimed system in that it involves a telephone with a base unit that is monitored. However, it lacks the essential claimed element of a level sensor. This level sensor is found in a reference unrelated to a base unit of a telephone but for devices such as wheelchairs, walkers, or other devices used in locomotion. Absent

Appl. No. 10/615,035  
Amendment Dated 10/5/2005  
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hindsight, it would not be obvious to one of ordinary skill in the art to look to a moving device for a teaching regarding a stationary telephone system.

Regarding claims 7 and 8, the Rejection relies on Chen (Table 1) to teach the detection of a dead line condition and initiate a call. The teaching in Chen shows that an exception is generated in the condition of a telephone remaining "on line." This would mean that a telephone is off the hook with a dial tone, but no number has been dialed and no connection has been made. In contrast, the instant claims and specification clearly state that a "dead line condition" is detected. This dead line condition is when the phone has been left off the hook for a "few minutes" and is dead or no longer has a dial tone (see specification, paragraph [0038].) The situation detected by Chen is separate from this dead line condition and thus the reference fails to teach this limitation and a *prima facie* case of obviousness is not established.

Independent claim 9 is allowable for the same reasons shown above regarding claim 7.

Independent claim 10 is allowable for the same reasons shown above regarding claim 6.

Appl. No. 10/615,035  
Amendment Dated 10/5/2005  
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### Conclusion

In light of the amendment and the reasons set forth above, it is respectfully submitted that all of the pending claims are in clear condition for allowance.

If additional fees are required, the Commissioner is hereby authorized to charge any additional fees to the undersigned's deposit account number 11-0853.

Respectfully submitted,



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